



WISCONSIN SUPREME COURT CALENDAR

March 5, 2002

9:45 a.m.

00-2473 Karen Bammert v. Don's Super Valu, Inc.

This is a review of a decision of the Wisconsin Court of Appeals, District III (headquartered in Wausau), which affirmed a judgment of the Dunn County Circuit Court, Judge Eric J. Wahl (an Eau Claire County judge) presiding.

In this case, the Wisconsin Supreme Court will decide whether an employer wrongfully fired a woman after the woman's police-officer husband ticketed the employer's wife for drunk driving. While the law is clear that an employee cannot be discharged in retaliation for his/her *own* actions under certain circumstances (for example, blowing the whistle on an employer's illegal activities), it is not clear whether the law protects an employee from discharge for his/her *spouse's* actions.

Here is the background: Karen Bammert worked for Don's Super Valu grocery store in Menomonie for 26 years before she was fired. Donald Williams owns the store and Nona Williams is his wife. On June 7, 1997, Nona Williams was pulled over for a traffic violation in Menomonie. Sergeant Bammert, Karen Bammert's husband, participated in the stop and noted that Nona Williams appeared drunk. He gave her a Breathalyzer and conducted several field sobriety tests, all of which she failed. She was arrested, booked, and cited for drunk driving.

Soon thereafter, Donald Williams fired Karen Bammert in apparent retaliation for the arrest. Karen Bammert initially filed a complaint with the Equal Rights Division (ERD), arguing that she was discriminated against because of her marital status. The ERD dismissed the complaint, finding that discrimination based upon marital status takes just one form: discrimination based on one's status as married or unmarried.

Bammert then sued Donald Williams in the circuit court for wrongful discharge, making an argument that good public policy requires employers like Williams to be held accountable lest police officers avoid taking action against their spouses' employers out of fear of retaliation. The judge, however, ruled against Bammert, saying:

Where Don's behavior could be viewed as being churlish and petty it nonetheless appears legal... Unfortunately, this court believes if Don's action to terminate Bammert is found to be a violation of public policy, there would be no stopping place. Any employee who is discharged could make the claim that the termination was caused by some act toward the employer by any relative or even a close friend of the employee.

Bammert took her case to the Court of Appeals, where she again lost. The Court of Appeals conceded that Bammert might have been fired for a "morally wrong reason" but found that the law does not prohibit firing an employee because of the actions of the employee's spouse. The Court of Appeals shared the circuit court's concern about a stopping point, questioning why, if such a public policy were enacted, it should protect an

employee whose spouse took an action that upset the employer, but not an employee whose parent or sibling took such an action.

In her appeal to the Supreme Court, Bammert again argues that public policy should dictate a protection for spouses: “It is ... illogical,” she says, “to permit the spouse of someone in whom the public has placed its trust, such as a law enforcement officer, to be terminated by their employer in retaliation for the law enforcement officer’s performance of a duty.”

The Court will decide whether to expand existing law concerning wrongful discharge to include circumstances where the retaliation is for a spouse’s actions.